



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007
March 5, 1976

R75-673

BRUCE E. BABBITT
ATTORNEY GENERAL

76-69

Honorable Donna J. Carlson
State Representative
House Wing, State Capitol
Phoenix, Arizona 85007

Re: R75-673

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Representative Carlson:

You have asked our advice with respect to the enforceability of A.R.S. § 4-244, which provides, in part, as follows:

It is unlawful:

* * * * *

20. For a person to consume spirituous liquor from a broken package in a public place, thoroughfare or gathering, and the license of a licensee permitting a violation of this paragraph on the premises shall be subject to revocation. This paragraph shall not apply to sale of spirituous liquors on the premises of and by an on-sale retail licensee.

Criminal statutes, as a general rule, are narrowly construed; in this case, I think it likely that a Court would limit application of the phrase "from a broken package" to consumption directly from the original container.

The phrase "public place", although somewhat vague, is probably a constitutional and enforceable definition. But, as a practical matter, the consumption of alcoholic beverages is tolerated in many public recreational areas, and any revision of the statute might well deal with that problem.

Please let me know if we can be of further assistance.

Sincerely,

Bruce E. Babbitt
Attorney General

BEB:gs



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